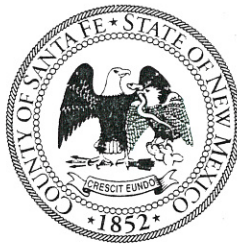


Henry P. Roybal  
Commissioner, District 1

Anna Hansen  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Anna T. Hamilton  
Commissioner, District 4

Ed Moreno  
Commissioner, District 5

Katherine Miller  
County Manager

To: Board of County Commissioners  
From: Gregory S. Shaffer, County Attorney  
Via: Katherine Miller, County Manager  
Date: March 16, 2017

**Re: Ordinance No. 2017-\_\_, An Ordinance Amending Ordinance No. 2009-2 to Remove Requirement of a Biannual Public Hearing so as to Allow the Low Income Tax Rebate to be Repealed by Ordinance at Any Time**

**Issue.** Ordinance No. 2009-2 adopted the low-income taxpayer property tax rebate (Tax Rebate) for Santa Fe County residents for the 2009 and subsequent tax years. Although not required by State law, Section 3 of Ordinance No. 2009-2 seemingly requires the Board of County Commissioners (Board) of Santa Fe County (County) to hold a public hearing in January of each odd-numbered year on whether the County should consider repealing the Tax Rebate. In addition, some might argue that the Board may only consider repealing the Tax Rebate biannually, after that public hearing. The proposed ordinance would do away with any requirement of a biannual public hearing and any limitation on the Board's legislative discretion to consider an ordinance repealing the Tax Rebate.

**Background.** Section 3, "Repeal", of Ordinance No. 2009-2 provides that "[r]epeal of the Low Income Tax Rebate may be accomplished by ordinance, following the biannual public hearing described in NMSA 1978, Section 7-2-14.3." State law, however, only requires a public hearing in "January of every odd-numbered year in which a county does **not** have in effect an ordinance" adopting the Tax Rebate. NMSA 1978, § 7-2-14.3(G) (emphasis added).

Section 3 of Ordinance No. 2009-2 creates confusion, since the public hearing described in NMSA 1978, § 7-2-14.3(G) does not apply to the County. It also creates busy work. If the Board is not interested in repealing the Tax Rebate, it does not make sense to have a public hearing on the matter. Finally, some might argue that Section 3 prohibits the Board from considering a repeal any other time other than after the biannual public hearing.

As seemingly required by Ordinance No. 2009-2, the Board conducted a public hearing on January 31, 2017. After the conclusion of the public hearing, the Board directed staff to prepare an ordinance that would amend Ordinance No. 2009-2 by removing references to the biannual public hearing. Staff did so, and, at its February 14, 2017, meeting, the Board authorized staff to publish title and general summary of the attached ordinance.

Exhibit B is a draft of the proposed ordinance that shows additions and deletions to the existing text of Ordinance No. 2009-2 by underscoring and strikethroughs. Exhibit C is the clean, adoption version of the proposed ordinance

**Recommendation.** Adopt the proposed ordinance.

**Attachments:** Exhibit A – Ordinance No. 2009-2

Exhibit B – Proposed Ordinance Amending Ordinance No. 2009-2 Showing Amendments via Underscoring and Strikethrough

Exhibit C – Clean, Adoption Version of Proposed Ordinance



THE BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY

ORDINANCE NO. 2009- 2

AN ORDINANCE CREATING THE LOW INCOME TAX REBATE;  
ESTABLISHING THE TAX YEARS TO WHICH THE REBATE APPLIES;  
PROVIDING FOR REPEAL FOLLOWING THE PUBLIC HEARING  
PROVIDED FOR IN NMSA 1978, SECTION 7-2-14.3 (2003)

BE IT ORDAINED BY THE GOVERNING BODY OF SANTA FE COUNTY,  
NEW MEXICO:

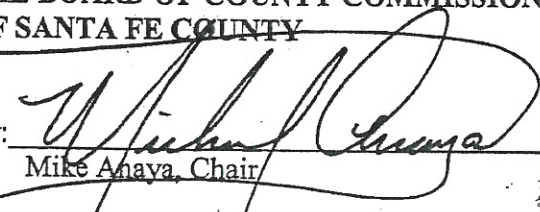
**Section One. Creating the Low Income Tax Rebate.** The low income tax rebate provided by NMSA 1978, Section 7-2-14.3 (2003) shall be and hereby is adopted in Santa Fe County for the 2009.

**Section Two. Tax Years to Which Rebate is Applicable.** The Low Income Tax Rebate created in Section 1 of this Ordinance shall apply to the 2009 tax year and to subsequent tax years until repealed as set forth in Section Three of this Ordinance.

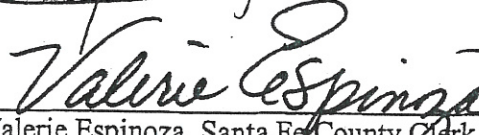
**Section Three. Repeal.** Repeal of the Low Income Tax Rebate may be accomplished by ordinance, following the biannual public hearing described in NMSA 1978, Section 7-2-14.3.

PASSED, APPROVED AND ENACTED this 14th day of April, 2009, by the Board of County Commissioners of Santa Fe County.

THE BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY

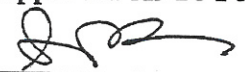
By:   
Mike Anaya, Chair

ATTEST

  
Valerie Espinoza, Santa Fe County Clerk



Approved As To Form:

  
Stephen C. Ross, County Attorney



COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss BCC ORDINANCE  
PAGES: 1

I Hereby Certify That This Instrument Was Filed for  
Record On The 16TH Day Of April, 2009 at 09:22:26 AM  
And Was Duly Recorded as Instrument # 1559323  
Of The Records Of Santa Fe County.

Witness My Hand And Seal Of Office  
Valerie Espinoza  
Deputy County Clerk

EXHIBIT

A

THE BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY

ORDINANCE NO. 2017-\_\_\_\_\_

AN ORDINANCE  
AMENDING ORDINANCE NO. 2009-2 TO REMOVE REQUIREMENT OF A  
BIANNUAL PUBLIC HEARING SO AS TO ALLOW THE LOW INCOME TAX  
REBATE TO BE REPEALED BY ORDINANCE AT ANY TIME

IT IS HEREBY ORDAINED by the Board of County Commissioners of Santa Fe County as follows:

1. The title of Ordinance No. 2009-2 is hereby amended to read in its entirety as follows:

**“AN ORDINANCE CREATING THE LOW INCOME TAX REBATE;  
ESTABLISHING THE TAX YEARS TO WHICH THE REBATE  
APPLIES; PROVIDING FOR REPEAL BY ORDINANCE FOLLOWING  
~~THE PUBLIC HEARING PROVIDED FOR IN NMSA 1978, SECTION 7-2-14.3 (2003)~~”.**

2. Section Three, “Repeal”, of Ordinance No. 2009-02 is hereby amended to read in its entirety as follows:

**“Section Three. Repeal.** Repeal of the Low Income Tax Rebate may be accomplished by ordinance, ~~following the biannual public hearing described in NMSA 1978, Section 7-2-14.3.”~~

3. This Ordinance shall become effective thirty (30) days after it is recorded in the Office of the County Clerk.

PASSED, APPROVED, AND ENACTED THIS \_\_\_\_ DAY OF MARCH, 2017.

THE BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY

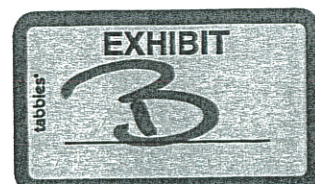
By: \_\_\_\_\_  
Henry P. Roybal, Chairperson

ATTEST:

\_\_\_\_\_  
Geraldine Salazar, County Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Gregory S. Shaffer, County Attorney



THE BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY

ORDINANCE NO. 2017-\_\_\_\_\_

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AN ORDINANCE  
AMENDING ORDINANCE NO. 2009-2 TO REMOVE REQUIREMENT OF A  
BIANNUAL PUBLIC HEARING SO AS TO ALLOW THE LOW INCOME TAX  
REBATE TO BE REPEALED BY ORDINANCE AT ANY TIME

---

IT IS HEREBY ORDAINED by the Board of County Commissioners of Santa Fe County as follows:

1. The title of Ordinance No. 2009-2 is hereby amended to read in its entirety as follows:

**“AN ORDINANCE CREATING THE LOW INCOME TAX REBATE;  
ESTABLISHING THE TAX YEARS TO WHICH THE REBATE  
APPLIES; PROVIDING FOR REPEAL BY ORDINANCE”.**

2. Section Three, “Repeal”, of Ordinance No. 2009-02 is hereby amended to read in its entirety as follows:

**“Section Three. Repeal.** Repeal of the Low Income Tax Rebate may be accomplished by ordinance.”

3. This Ordinance shall become effective thirty (30) days after it is recorded in the Office of the County Clerk.

**PASSED, APPROVED, AND ENACTED THIS 28<sup>th</sup> DAY OF MARCH, 2017.**

**THE BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY**

By: \_\_\_\_\_  
Henry P. Roybal, Chairperson

ATTEST:

\_\_\_\_\_  
Geraldine Salazar, County Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Gregory S. Shaffer, County Attorney







